

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN SECTION OF TENNESSEE
WESTERN DIVISION

SCOTT TURNAGE , CORTEZ D.)	
BROWN, DEONTAE TATE, JEREMY S.	)	Case No. 2:16-cv-2907-SHM/tmp
MELTON, ISSACCA POWELL, KEITH)	
BURGESS, TRAVIS BOYD, TERRENCE)	
DRAIN, and KIMBERLY ALLEN on)	
behalf of themselves and all similarly)	
situated persons,)	
)	
PLAINTIFFS,	)	CLASS ACTION COMPLAINT FOR
	)	VIOLATIONS OF THE CIVIL RIGHTS
v.	)	ACT OF 1871, 42 U.S.C. § 1983,
	)	TENNESSEE COMMON LAW,
	)	DECLARATORY, AND INJUNCTIVE
	)	RELIEF
)	
)	
)	
BILL OLDHAM, in his individual and in)	
his official capacity as the Sheriff of Shelby	)	JURY TRIAL DEMANDED
County, Tennessee; ROBERT MOORE, in	)	PURSUANT TO FED. R. CIV. PRO. 38(a)
his individual and in his official capacity as	)	& (b)
the Jail Director of Shelby County,)	
Tennessee; CHARLENE McGHEE, in her)	
individual and in her official capacity as the)	
Assistant Chief of Jail Security of Shelby)	
County, Tennessee; DEBRA HAMMONS,)	
in her individual and in her official capacity)	
as the Assistant Chief of Jail Programs of)	
Shelby County, Tennessee; SHELBY)	
COUNTY, TENNESSEE, a Tennessee)	
municipality; TYLER TECHNOLOGIES,)	
INC., a foreign corporation,)	
)	
)	
)	
DEFENDANTS.)	

**UNOPPOSED MOTION TO AMEND THIRD AMENDED CLASS ACTION
COMPLAINT AND MEMORANDUM OF LAW IN SUPPORT THEREOF**

TO THE HONORABLE DISTRICT COURT JUDGE:

Plaintiffs Scott Turnage, Cortez D. Brown, Deontae Tate, Jeremy S. Melton, Issacca Powell, Keith Burgess, Travis Boyd, Terrence Drain, and Kimberly Allen, on behalf of themselves and all other similarly situated persons, by and through their designated attorneys, and pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure and Rule 7.2 of the Local Rules of United States District Court for the Western District of Tennessee, submit their Unopposed Motion to Amend their Third Amended Complaint (the “Motion”) and Memorandum of Law in Support Thereof. In support of the Motion, Plaintiffs state as follows:

1. This is a putative class action lawsuit against Shelby County, Tennessee, certain Shelby County policymakers, and a technology contractor for, *inter alia*, the unlawful over-detention of numerous individuals in the Shelby County Jail caused by the development and implementation of a defective software package used to manage the Jail and the Shelby County Criminal Courts. Collectively, the defective software package is known as the Shelby County Integrated Criminal Justice System (“iCJIS”) and is comprised of software, such as the “Odyssey” software developed and implemented by Defendant Tyler Technologies, Inc. (“Tyler Tech”), and various underlying subsystems.

2. For the reasons set forth herein, Plaintiffs, through this Motion, seek to amend their Third Amended Class Action Complaint in order to name certain officials who took office under the newly seated 2018 Shelby County Administration along with certain technology contractors recently discovered by Plaintiffs to be involved in the development and implementation of iCJIS. Moreover, Plaintiffs seek to amend their Third Amended Class Action Complaint to provide additional clarity to the declaratory and injunctive relief alleged in the Third Amended Class Action Complaint. Plaintiffs’ proposed Fourth Amended Class Action

Complaint is attached to this Motion as **EXHIBIT A**. Defendants do not oppose the relief requested herein. For the reasons that follow, the Court should grant this Motion in its entirety.

3. In or around September 2018, Defendants Bill Oldham, Robert Moore, Charlene McGhee, and Debra Hammons were replaced in their official capacities as Shelby County Sheriff, Chief Jail Director, Assistant Chief of Jail Security, and Assistant Chief of Jail Programs by Floyd Bonner, Jr., Kirk Fields, Reginald Hubbard, and Tiffany Ward, respectively.

4. Thereafter, on November 28, 2018, Defendant Tyler Technologies, Inc. (“Tyler Tech”) filed its Answer and Affirmative Defenses to Plaintiffs’ Third Amended Class Action Complaint (Dkt. No. 122).

5. In its Twelfth Affirmative Defense, Defendant Tyler Tech adopts and relies upon the doctrine of comparative fault and asserts that the negligence, acts, or omissions of certain parties, whose involvement in the facts and circumstances underlying this case was previously unknown to Plaintiffs, should be considered when determining the liability of Tyler Tech.

6. Specifically, Tyler Tech asserts that its liability in this action should be reduced due to the negligence, acts, or omissions of Global Tel*Link Corporation (“GTL”), Software AG Cloud Americas, Inc. (“Software AG”), and Sierra-Cedar, Inc. (“Sierra-Cedar”), all of whom are presently non-parties to this action. Plaintiffs promptly propounded written discovery to Tyler Tech in order to determine the factual bases for these allegations.

7. On January 14, 2019, in response to Plaintiffs’ written discovery, Tyler Tech disclosed that GLT, Software AG, and Sierra-Cedar each entered into contractual relationships with Shelby County in connection with iCJIS and, in doing so, were responsible for certain subsystems of which iCJIS is comprised.

8. Specifically, Tyler Tech informed Plaintiffs that GTL entered into a contract with the County to implement, support, and maintain a so-called “Offender Management System” or “OMS” for the Sheriff’s Office Jail and Shelby County. Likewise, Software AG contracted with the County to implement, support, and maintain “Info Hub Architecture Software” in support of iCJIS. Sierra-Cedar, according to Tyler Tech, was responsible for the implementation of portions of the iCJIS “information hub,” which “transmitted information from one iCJIS subsystem to another (for example, from the jail to the courts and vice versa).”

9. Accordingly, Tyler Tech maintains that to the extent that Plaintiffs’ damages and/or injuries resulted from issues with OMS, the Info Hub Architecture Software, and/or the “information hub,” GTL, Software AG, and Sierra-Cedar are liable to Plaintiffs, and Tyler is entitled to reduced liability on comparative fault grounds.

10. Rule 15(a) permits amendments to pleadings at any time during the litigation and leave shall be freely given “when justice so requires.” *See* Fed. R. Civ. P. 15(a)(2). As a general proposition, “the Sixth Circuit frowns on the denial of this type of motion.” *Smith v. First Century Bank*, No. 3:04-cv-591, 2006 U.S. Dist. LEXIS 51220, at *5 (E.D. Tenn. Jul. 25, 2006); *see also, Black v. Ryder/P.I.E. Nationwide, Inc.*, 930 F.2d 505, 509-10 (6th Cir.1991) (holding, *inter alia*, that district court should have allowed amendment, even though the case was four years old, even though plaintiff had already amended, even though the proposed amendment was two months before a non-jury trial, and even though the amendment would have converted the non-jury trial to a jury trial). However, a court must balance harm to the moving party if he or she is not permitted to amend against prejudice caused to the other party if leave to amend is granted. *Foman v. Davis*, 371 U.S. 178, 182 (1962). A court may deny leave to amend only in limited circumstances, such as “undue delay, bad faith, or dilatory motive on the part of the

movant, repeated failure to cure deficiencies by amendments previously allowed and futility of the amendment.” *Id.*

11. In the instant case, there has been no delay, bad faith, or dilatory motive by Plaintiffs. Notably, Plaintiffs were unaware of the extent of the involvement of GTL, Software AG, and Sierra-Cedar until Tyler Tech provided its discovery responses on January 14, 2019, and Floyd Bonner, Jr., Kirk Fields, Reginald Hubbard, and Tiffany Ward did not take office until late 2018. In any event, the Defendants do not oppose the relief requested herein.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs, on behalf of themselves and all other similarly situated persons, respectfully move this Honorable Court to grant this unopposed Motion in its entirety and provide Plaintiffs leave to file a Fourth Amended Complaint.

Respectfully submitted,

/s/ Michael G. McLaren

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CERTIFICATE OF CONSULTATION

Pursuant to Local Rule 7.2(a)(1)(B), on December 13, 2018, counsel for Plaintiffs consulted in-person with Robert E. Craddock, Odell Horton, Jr., Bradley E. Trammell, and Emmett Lee Whitwell, among other counsel for Defendants and, on January 15, 2019, further consulted with counsel for Defendants by telephone. Defendants do not oppose the instant Motion.

/s/ William E. Routt _____

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of January, 2019, a true and correct copy of the foregoing pleading has been filed electronically with the Court's Electronic Case Filing System. Pursuant to the Court's ECF System, the following parties listed below are filing users who will receive notice of the foregoing document's filing:

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